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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 WILLIAM L. BIRD,
12 Petitioner,
13 v.
14 JILL BROWN, Warden,
15 Respondent.

No. C 05-02454 MJJ

ORDER TO SHOW CAUSE

17 Petitioner William L. Bird (“Petitioner”) is currently serving a term of eight years at San
18 Quentin State Prison in San Quentin, California, based on a state court conviction for second degree
19 burglary and grand theft of personal property. Petitioner has filed a petition for a writ of *habeas*
20 *corpus* pursuant to 28 U.S.C. § 2254.

21 Petitioner challenged his conviction and sentence through to the California Supreme Court,
22 without success. Petitioner now seeks federal *habeas corpus* relief, claiming that the trial court’s
23 determination that Petitioner’s prior conviction was a “serious felony” subjecting him to a longer
24 sentence violated his Sixth and Fourteenth Amendment rights. Petitioner claims that the court made
25 a critical factual finding on an element of that prior crime that was never tried by a jury.

26 For the foregoing reasons and for good cause shown, it is hereby ordered that:

27 1. Respondent shall file and serve within sixty (60) days of the issuance of this Order,
28 an answer conforming in all respects with Rule 5 of the Rules Governing Habeas Corpus Cases
Under Section 2254, showing cause why a writ of *habeas corpus* should not issue; and

2. If Petitioner wishes to reply to the answer, he must do so by filing and serving a
traverse within thirty (30) days of his receipt of Respondent's answer.

IT IS SO ORDERED.

8 || Dated: June 29, 2005

/s/
MARTIN J. JENKINS
UNITED STATES DISTRICT JUDGE

